HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE MS JUSTICE G. ROHINI

Writ Appeal No.829 of 2007

Between:

Sri Swamy Ayyappa Cooperative Housing Society Limited, TBC 407, Madhapur, Serilingampally Mandal, Hyderabad – 81, Rep., by its Chairman PIC Committee U/s. 32 (7)(a) of the AP Cooperative Societies Act 7 of 1964

… Appellants

And

Government of Andhra Pradesh, Rep., by its Secretary to Government, Revenue (Endowments II) Department, Secretariat Buildings, Hyderabad and four others

… Respondents

Counsel for the appellants : Shri M. Ramakanth for Shri D.V. Bhadram

::JUDGMENT::

October 25, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 8-9-2006 passed by the learned Single Judge in Writ Petition No. 14632 of 2006, whereby he refused to nullify order dated 1-6-2004 passed by Deputy

Commissioner, Endowments, Hyderabad (respondent No.3) under Section 83 of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act') on the ground of availability of alternative remedy to the appellant herein under Section 84 (2) of the Act.

Shri M. Ramakanth, learned counsel for the appellant made efforts to convince us that the view taken by the learned Single Judge on the issue of maintainability of the writ petition is erroneous by arguing that order dated 1-6-2004 was passed without complying with the rules of natural justice, and in such case, the rule of alternative remedy is not applicable, but we have not felt convinced.

A reading of order dated 1-6-2004 shows that respondent No.3 allowed the applications filed by the Assistant Commissioner of Endowments Department, Ranga Reddy District under
Section 83(2) of Act after giving notice to the affected persons including the appellant herein. In the affidavit filed by him,
Shri V. Devi Prasad, Chairman of the PIC Committee appointed under Section 32(7)(a) of the Andhra Pradesh Co-operatiave Societies Act, 1964 to manage the affairs of the appellant society, did aver that copy of O.A.No.161 of 1999 was not served on the society and no notices were issued to the society, but the said averment cannot be relied because the affidavit filed in support of the writ petition has not been verified as per the requirement of Rule 6 of the Andhra Pradesh High Court Writ Rules, 1977 and Order XIX Rule 3 of the Code of Civil Procedure. That apart, the plea of violation of the rules of natural justice was not argued before the learned Single Judge. If the counsel appearing on behalf of the appellant had argued before the learned Single Judge that order dated 1-6-2004 is vitiated due to violation of the rule of audi alteram partem and the same was not considered by the learned Single Judge, then the appellant could have filed petition for review of the order under challenge. However, the fact of the matter is that no such petition

was filed. Therefore, we do not find any valid ground to make a departure from the well established rule that the High Court will not entertain writ petition under Article 226 of the Constitution of India if an alternative remedy is available to the petitioner - **A.V. Venkateshwaran v. R.S. Wadhwani**[1], **Thansingh Nathmal v. Superintendent of Taxes**[2], **Baburam v. Zilla Parishad**[3], **Titaghur Paper Mills Co. Ltd. v. State of Orissa**[4], **Champa Lal v. I.T. Commissioner**[5], **J.M. & Co. v. Agricultural I.T. Officer, Assam**[6], **C.I.T. v. Ramendra Nath Ghosh**[7], **Swadeshi Cotton Mills Co. Ltd., v. Government of U.P.**[8], **Gujarat University v. N.U. Rajguru**[9], **State of H.P. v. Raja Mahendra Pal**[10], **L.L. Sudhakar Reddy v. State of A.P.**[11], **State of Bihar v. Jain Plastics & Chemicals Ltd.,**[12].

In the result, the appeal is dismissed. Needless to say that the appellant shall be free to avail the alternative remedy in terms of Section 84 (2) of the Act.

As a sequel to dismissal of the writ appeal, WAMP No. 1654 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

G. ROHINI, J

October 25, 2007
ks

---

[1] AIR 1961 SC 1506
[2] AIR 1964 SC 1419
[3] AIR 1969 SC 556
[4] (1983) 2 SCC 433
[5] AIR 1970 SC 645
[6] AIR 1970 SC 1980
[7] (1972) 4 SCC 379
[8] (1975) 4 SCC 378

[9] AIR 1988 SC 66
[10] (1999) 4 SCC 43
[11] (2001) 6 SCC 634
[12] (2002) 1 SCC 216